

Land Reforms in Scotland Give Big Estates the Jitters

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Dornach, Scotland, February 20th – Swaddled in the solitude of the Scottish Highlands, Skibo Castle, once the home of the steel tycoon Andrew Carnegie – and now a storybook resort for the privileged – is a place infused with an aura of tranquillity and comfort. The rich and famous travel here to the northern reaches of Scotland to golf, ride, roam about the grounds and attend candlelight dinners. Madonna married Guy Ritchie at the castle two years ago, in full Scottish regalia. Members of Skibo's members-only Carnegie Club enjoy a "*unique and private refuge from the hectic world*," its Website boasts.

But last month the Scottish Parliament – a four year-old institution based in Edinburgh – overwhelmingly passed the [Land Reform \(Scotland\) Act 2003](#) that fundamentally changes property rights in Scotland, and could greatly expand the public's access, even to private estates like Skibo Castle. The new law would give crofters – small-scale tenant farmers who have lived in the Highlands for generations – the right to collectively purchase sections of the estates they live on, whether or not the landowner wants to sell. The law also allows anyone in Scotland the right to roam just about anywhere they please, granting landowners only limited power to eject someone from their property.

The provisions, expected to be signed into law by the queen later this year, have set off a fury among Scotland's rich estate owners, who have labelled it a brand of Marxism and likened it to the seizures of white-owned land by President Robert Mugabe of Zimbabwe. "*The only countries in the world left with this kind of thing are North Korea and Cuba*" said Peter de Savary, the flamboyant entrepreneur who turned Skibo Castle from a private home into the Carnegie Club in 1995. "*The Scottish legislation is ill-conceived, has not been thought out and is particularly inane. There is nothing to commend it at all.*"

Landowners fear their land may be sold out from under them or – in the case of sporting and leisure clubs – the members worry about losing privacy. They also argue that the Act may ultimately hurt local economies by cutting tourism.

Supporters of the Act – which passed by a vote of 101 to 19 with only 2 abstentions – shrug off the criticism, saying change was overdue in Scotland, where half of private land is in the hands of just 343 landowners and only half of Scotland's land has gone on the market in the past century. "*The reason we are doing this now is because we haven't done it in 200 years,*" said Andy Wightman, author of [Who Owns Scotland](#).

Mr de Savary said he was most distressed over the right to roam section of the Act, which would make it next to impossible to bar someone from his land. *"I'm not sure they can't walk all over the golf course and get hit on the head by a ball and be killed,"* he said. *"And the owner of the golf course will be liable."* Other landowners, most of whom vigorously lobbied against the Act, are particularly aghast over the provision that gives crofting communities the right to buy an estate's common grazing grounds, including its fishing rights – regardless of the landowner's desire to sell. If the majority of crofters in a community decide they want to buy, the property's value is determined by an independent assessor – and may be bought using lottery money that goes to a government fund. *"This is about the haves and have-nots,"* said Gordon Robertson, who manages Balnagown, the Easter Ross estate of Mohammed al Fayed, owner of Harrods department store in London. *"The decision appears to be political, looking at the past, and it lacks a basic understanding of how rural Scotland works."* Several landowners, through the Scottish Landowners' Federation, hope to challenge the law before the European Court of Human Rights. They say the Act is scaring off potential investors, who would not want to risk money on estates that could be bought out from under them. *"It's a revenge job for something carried out 150 years ago and more,"* said John MacLeod, whose family has owned 50,000 acres on the Isle of Skye for more than five centuries.

Too many people, though, the Act is viewed as a belated effort to address a deep imbalance in property ownership in Scotland and a chance to remedy the wrongs committed by powerful landowners 200 years ago, during the Highland Clearances. At the time, crofters were pushed off the land and their homes were burned to enlarge estate holdings and often to make way for sheep. Many left for the United States, Canada and Australia. The crofters living in Scotland today can trace their lineages back to those who were pushed onto the margins of the big estates. The British government ignored the issue for decades, partly in deference to the House of Lords, which is stocked with wealthy landowning aristocrats. But when the Scottish Parliament was created four years ago, it seized on the issue. *"This is the first major challenge to the institutional power that landowners have enjoyed in the political process,"* Mr. Wightman said.

In the Highlands, where the Act most resonates, fewer than 100 landowners – aristocrats, celebrities, foreign investors, Arab sheiks and offshore companies – own more than half the land. Some are absentee landlords. Others, though, run the estate at a loss and invest millions to maintain sport hunting grounds, run lodges and keep rivers pristine – all of which helps local economies. Many lawmakers and crofters argue that landowners are panicking unnecessarily. The most contentious provision in the Act – the crofting communities' right to buy – affects only 7 percent of all Scottish land and many have no intention of taking advantage of the offer. Those who do want to buy must surmount a number of hurdles, including holding a local referendum and withstanding a legal appeal. *"In one sense, it is revolutionary,"* said Jim Wallace, Deputy First Minister of the Scottish Parliament who helped to steer the Act through the legislature. *"It's a simpler way of giving crofting communities the right to buy land. But the heavens aren't going to fall in."*

In some cases, the buying and selling of land will be done amicably, as is currently happening with the Dundonnell estate of the lyricist Sir Tim Rice, who is negotiating the sale of part of his 33,000 acres of Wester Ross land to a group of crofters. Several

other crofting communities, though, are moving ahead with plans to confront their landlords and assert their right to buy. Hugh MacLellan, 42, a crofter who has occupied the same land his family was squeezed into some 200 years ago, is already setting plans in motion to purchase 2,300 acres of the Durness estate, which is owned by Vibal SA, a company licensed in Liechtenstein. Mr MacLellan, an oyster farmer and owner of a bed and breakfast establishment in northwest Sutherland, hopes to revitalise the village of Laid, which he says has languished through neglect. The landowners, he said *“want to hold on to the property for its mineral rights.”* He hopes to buy it and turn parts into a heritage trail, maybe set up a shellfish processing plant or a wind farm to produce electricity. *“The landlord has had it for 20 years and done nothing with it,”* Mr MacLellan said. *“As far as I know, the owners have never been here. We hope, if we take over, we can create developments.”*

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